

## JOURNAL OF THE HOUSE.

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Wednesday, February 25, 2004.

Met according to adjournment, at eleven o'clock A.M., with Mr. O'Flaherty of Chelsea in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God of Goodness and Forgiveness, with Your assistance, we struggle each day to offer You and constituents our best and thoughtful legislative and personal efforts in carrying out our duties and responsibilities. Often the selection of the most comfortable or easiest options open to us are not always right choices. Help us to remain clearly focused and faithful to our own high ideals, time-honored human spiritual values and our religious commitments as we address the items on the daily calendar. Inspire us to cultivate a right conscience and time-tested principles as guides for serving people and addressing issues. On this Ash Wednesday, many Christians around the world begin the Lenten Season. This religious season of the year is a time of forgiving and forgiveness, of hope and hoping, of respect and respecting others, of love and loving, God and all the members of His one human family.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. O'Flaherty), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

### *Statement Concerning Representative Connolly of Everett.*

A statement of Mr. DiMasi of Boston concerning Mr. Connolly of Everett was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Connolly of Everett, will not be present in the House Chamber for today's sitting due to a previously scheduled medical procedure. Any roll calls that he may miss today is due entirely to the reason stated.

Statement  
concerning  
Representative  
Connolly of  
Everett.

### *Resolutions.*

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Shayne P. Parent on receiving the Eagle Award of the Boy Scouts of America;

Shayne P.  
Parent.

Resolutions (filed by Ms. Kaprielian of Watertown) commending Joseph G. Ford on his many accomplishments;

Joseph G.  
Ford.

Resolutions (filed by Mr. Linsky of Natick) congratulating Justin D. Dunn on receiving the Eagle Award of the Boy Scouts of America;

Justin D.  
Dunn.

James F.  
Hoelein.

Resolutions (filed by Representatives Linsky of Natick and Harkins of Needham) congratulating James F. Hoelein on receiving the Eagle Award of the Boy Scouts of America;

Adam B.  
Seering.

Resolutions (filed by Mr. Linsky of Natick) congratulating Adam B. Seering on receiving the Eagle Award of the Boy Scouts of America;

Matthew S.  
Spadi.

Resolutions (filed by Mr. Linsky of Natick) congratulating Matthew S. Spadi on receiving the Eagle Award of the Boy Scouts of America;

Sandra L.  
Bernier.

Resolutions (filed by Messrs. O'Brien of Kingston, Straus of Mattapoisett and Howland of Freetown) congratulating Sandra L. Bernier on the occasion of her retirement;

Jeffrey P.  
Cunningham.

Resolutions (filed by Messrs. O'Brien of Kingston and Straus of Mattapoisett) congratulating Jeffrey P. Cunningham on receiving the Eagle Award of the Boy Scouts of America;

Robert  
Anthony  
Miquel.

Resolutions (filed by Messrs. O'Brien of Kingston and Straus of Mattapoisett) congratulating Robert Anthony Miquel on receiving the Eagle Award of the Boy Scouts of America;

Rose M.  
Gowell.

Resolutions (filed by Mr. Scaccia of Boston) congratulating Rose M. Gowell on the occasion of her ninetieth birthday; and

Andrew  
Bawn.

Resolutions (filed by Mrs. Walrath of Stow) congratulating Andrew Bawn on receiving the Eagle Award of the Boy Scouts of America;

Mr. Miceli of Wilmington, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Spellane of Worcester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### *Papers from the Senate.*

Barnstable,  
septic  
system.

A Bill authorizing Barnstable County to administer the repair, replacement and upgrade of septic systems (Senate, No. 2123) (on Senate, No. 144), passed to be engrossed by the Senate, was read; and it was referred, under Rule 32A, to the committee on Long-Term Debt and Capital Expenditures.

Petitions were referred, in concurrence, as follows:

Charlton,  
water and  
sewer.

Petition (accompanied by bill, Senate, No. 2222) of Stephen M. Brewer and Mark J. Carron (by vote of the town) for legislation to clarify the powers and duties of the Charlton water and sewer commission; and

Revere,  
sewer  
fees.

Petition (accompanied by bill, Senate, No. 2223) of Thomas G. Ambrosino, mayor, Jarrett T. Barrios, Kathi-Anne Reinstein, and Robert A. DeLeo (with the approval of the mayor and city council) for legislation to authorize the city of Revere to reduce water and sewer fee liability in exchange for volunteer services by persons over age 60;

Severally to the committee on Local Affairs and Regional Government.

Milton,  
land  
conveyance.

A petition of Brian A. Joyce for legislation to authorize the sale of certain land in the town of Milton to Alexis W. Blood, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2233) was referred, in concurrence, to the committee on State Administration.

#### *Reports of Committees.*

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration

Motor  
vehicles,  
leases.

Of the Bill relative to leasing motor vehicles (Senate, No. 1353); Of the Bill making certain corrective changes in the General Laws (House, No. 24, changed); and

Insurance  
laws.

Of the Bill relative to the sale of certain types of life insurance policies within the Commonwealth (House, No. 171);

Life  
insurance,  
sale.

And recommending that the same severally be referred to the House committee on Rules; and

Of the Bill increasing protections for consumers in the insurance marketplace (House, No. 23),— and recommending that the same be referred to the committee on Ways and Means.

Insurance,  
consumer  
protection.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Honan of Boston, for the committee on Housing and Urban Development, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2441) of Christopher G. Fallon for legislation to provide assistance for water and sewer rates for low-income and moderate-income persons,— and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence in the discharge of the committee.

Low income  
households,  
sewer rates.

By Mr. Rodrigues of Westport, for the committee on Commerce and Labor, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2564) of Brian Knuuttila and Robert A. Antonioni for legislation to include paid tax preparers who make loans to clients in anticipation of refunds under the laws relative to criminal usury,— and recommending that the same be referred to the committee on Criminal Justice. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Criminal  
usury.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill authorizing the town of Plymouth to enact by-law relative to the impact of development (House, No. 4351),— and recommending that the same be referred to the committee on Taxation. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence in the reference.

Plymouth,  
impact  
fees.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill authorizing the town of Pepperell to place a certain question relative to the sale of alcoholic

Pepperell,  
liquor  
licenses.

beverages on the towns election ballot (House, No. 4377) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Ms. Rogeness of Longmeadow, the bill was read a second time forthwith; and it was ordered to a third reading.

Water  
supplies,  
protection.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on a petition, a Bill relative to the protection of the Commonwealth's water supplies (House, No. 2477). Read; and referred, under Rule 32A, to the committee on Long-Term Debt and Capital Expenditures.

Low and  
moderate  
income  
housing.

By Mr. Honan of Boston, for the committee on Housing and Urban Development, on Senate, Nos. 699, 721 and 740 and House, No. 1297, a Bill preserving the Commonwealth's investment in public housing and enhancing opportunities for production of low and moderate income housing (House, No. 4534).

Weymouth,  
sewer  
system.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on a petition, a Bill authorizing the town of Weymouth Norfolk County authority to grant access to its sewer system and to assess charges therefor (House, No. 1537).

Cathode  
ray  
tubes.

By the same member, for the same committee, on House, No. 1533, a Bill to require the take back of used cathode ray tubes (House, No. 4535).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Elderly,  
water  
charges.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on a petition, a Bill providing for an exemption for water charges of certain elderly persons (House, No. 3001). Read; and referred, under Rule 33, to the committee on Local Affairs and Regional Government on the part of the House.

Agricultural  
technology.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on House, Nos. 3012, 3564 and 3565, a Bill relative to agricultural technology (House, No. 4536). Read; and referred, under Rule 33B, to the committee on Science and Technology.

Farmers  
and  
pesticides.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on House, Nos. 44 and 48, a Bill making corrective changes in certain statutes pertaining to license fees for farmers and producers of farm products and for pesticides (House, No. 48). Read; and referred, under Rule 33D, to the committee on Homeland Security and Federal Affairs.

Pesticide  
Control  
Act.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on House, Nos. 44 and 47, a Bill making certain corrective changes in the Massachusetts Pesticide Control Act (House, No. 47).

Northern  
Berkshire  
Solid  
Waste.

By the same member, for the same committee, on a petition, a Bill relative to the Northern Berkshire Solid Waste District (House, No. 799).

By the same member, for the same committee, on House, Nos. 2274 and 3197, a Bill relative to commercial breeders (House, No. 4537).

Commercial  
breeders.

By Mr. Koczera of New Bedford, for the committee on Public Service, on a petition, a Bill providing civil service status for certain employees of the Taunton Municipal Lighting Plant of the city of Taunton (House, No. 4185).

Taunton  
Municipal  
lighting.

By the same member, for the same committee, on a petition, a Bill authorizing the certification and eligibility as firefighters in the city of Taunton (House, No. 4186).

Taunton,  
firefighter  
eligibility.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

### *Engrossed Bill.*

The engrossed Bill relative to parking violations in the town of Marblehead (see House, No. 4235) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill  
enacted.

### *Orders of the Day.*

#### House bills

Relative to certain separate accounts (printed as Senate, No. 850) (its title having been changed by the committee on Bills in the Third Reading);

Third  
reading  
bills.

Relative to liquor legal liability insurance (House, No. 1881); and Authorizing the city of Lowell to pay a certain unpaid bill (House, No. 4216);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

#### Senate bills

Authorizing the Department of Conservation and Recreation and the Department of Fish and Game to acquire conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester (Senate, No. 1229, amended); and

Second  
reading  
bills.

Authorizing a transfer from the unemployment compensation fund in the town of Gill (Senate, No. 2104, amended); and

#### House bills

Relative to the underground cable reimbursement schedule (House, No. 1857);

Relative to municipal lighting plant cooperatives (House, No. 2425); Relative to the Jacob Sears Memorial Library (House, No. 3746);

Authorizing and directing the Commissioner of Capital Asset Management and Maintenance to place a conservation restriction on and transfer a certain parcel of land to the Kuzeja Real Estate Trust (House, No. 3985);

Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the town of Plainville (House, No. 4201);

Second  
reading  
bills.

Relative to the retirement and health benefits of certain elected officials of the town of Richmond (House, No. 4236);

Relative to the election of town meeting members and validating the actions taken at certain town meetings held in the town of South Hadley (printed in House, No. 4380, changed); and

Establishing a sick leave bank for Christopher Lavele an employee of the Department of Correction (House, No. 4412);

Severally were read a second time; and they were ordered to a third reading.

Second reading  
bill amended.

The Senate Bill amending the definition of a veteran (Senate, No. 822) was read a second time.

The amendment previously recommended by the committee on Ways and Means,—that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4533,—was adopted.

The bill (Senate, No. 822, amended) then was ordered to a third reading.

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The Senate Bill authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land to the Roxbury/South End Tenants' Council, Inc., D/B/A Roxse Tenants Council (Senate, No. 2181) was read a second time.

The amendment previously recommended by the committee on Ways and Means,—that the bill be amended in section 3 by adding at the end thereof the following paragraph:

“The deed or other instrument conveying the parcel to the Roxbury/South End Tenants Council, Inc. d/b/a Roxse Tenants Council and any subsequent deed or deeds of all or a portion of the parcels shall, without limitation, provide that if the parcels cease to be used for the purposes set forth in this act, title to the parcels or to such portions of the parcels as may be used in violation of this act, shall, at the election of the Commonwealth, revert to the Commonwealth.”,—was adopted.

The bill (Senate, No. 2181, amended) then was ordered to a third reading.

#### House reports

House  
reports.

Of the committee on Government Regulations, ought NOT to pass, on the petition (accompanied by bill, House, No. 1278) of Martin J. Walsh, Brian P. Wallace and Anthony Petrucelli relative to further regulating continuing education for plumbers and gas inspectors; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1470) of Daniel E. Bosley for legislation to provide that gas gate boxes be easily accessible to gas company service employees and emergency public service personnel;

Severally were accepted.

Food  
products,  
labeling.

The House Bill relative to the labeling of certain food products and dietary supplements (House, No. 2565) was read a second time.

Pending the question on ordering the bill to a third reading, it was referred, on motion of Mr. Peterson of Grafton, to the committee on Health Care. Sent to the Senate for concurrence.

#### *Recess.*

At twenty-five minutes after eleven o'clock A.M., on motion of Mr. Scibak of South Hadley (Mr. O'Flaherty of Chelsea being in the Chair), the House recessed until one o'clock P.M.; and at a quarter after one o'clock the House was called to order with Mrs. Harkins of Needham in the Chair.

Recess.

#### *Quorum.*

Ms. Rogeness of Longmeadow asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins of Needham), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

Quorum.

Quorum,  
yea and nay  
No. 533.

#### **[See Yea and Nay No. 533 in Supplement.]**

Therefore a quorum was present.

#### *Orders of the Day.*

The Senate Bill relative to adjudicatory hearings of the Board of Registration in Medicine (Senate, No. 2151) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Webster of Hanson moved that it be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4538). After remarks the amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Finneran of Boston; and on the roll call 155 members voted in the affirmative and 0 in the negative.

Medicine  
Board,  
hearings.

Bill passed  
to be  
engrossed,  
yea and nay  
No. 534.

#### **[See Yea and Nay No. 534 in Supplement.]**

Therefore the bill (Senate, No. 2151, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Section 87 contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had been returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4365), was considered.

Supplemental  
appropriations,  
Substance  
abuse  
services.

Pending the question on passing said section, notwithstanding the objections of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Thursday, April 15.

Motion to postpone negative, yea and nay No. 535.

After remarks on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 24 members voted in the affirmative and 131 in the negative.

**[See Yea and Nay No. 535 in Supplement.]**

Therefore the motion to postpone was negative.

Substance abuse services section 87 stands, yea and nay No. 536.

After remarks on the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 135 members voted in the affirmative and 20 in the negative.

**[See Yea and Nay No. 536 in Supplement.]**

Therefore section 87 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Emerging technologies, Small Business Advisory Council.

Section 53 contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), which had returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4366), was considered.

After debate on the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 144 members voted in the affirmative and 9 in the negative.

**[See Yea and Nay No. 537 in Supplement.]**

Therefore section 53 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Supplemental appropriations, Community policing.

Section 67 contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4365), was considered.

Pending the question on passing said section, notwithstanding the objections of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Thursday, April 15.

Motion to postpone negative, yea and nay No. 538.

After remarks on the motion to postpone the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call (Ms. Candaras of Wilbraham being in the Chair) 23 members voted in the affirmative and 131 in the negative.

**[See Yea and Nay No. 538 in Supplement.]**

Therefore the motion to postpone was negative.

On the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 130 members voted in the affirmative and 25 in the negative.

**[See Yea and Nay No. 539 in Supplement.]**

Therefore section 67 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Community policing section 67 stands, yea and nay No. 539.

Item 0640-0300 (contained in section 2) of the engrossed Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4365), was considered.

After remarks on the question on passing said item, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 138 members voted in the affirmative and 18 in the negative.

**[See Yea and Nay No. 540 in Supplement.]**

Therefore item 0640-0300 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Supplemental appropriations, Mass Cultural Council.

Supplemental appropriations item 0640-0300 stands, yea and nay No. 540.

Section 77 contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4365), was considered.

On the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 131 members voted in the affirmative and 25 in the negative.

**[See Yea and Nay No. 541 in Supplement.]**

Therefore section 77 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Supplemental appropriations, Cultural Council.

Cultural Council section 77 stands, yea and nay No. 541.

*Order.*

On motion of Mr. Finneran of Boston,—

*Ordered*, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at thirteen minutes after three o'clock P.M., on motion of Ms. Rogeness of Longmeadow (Ms. Candaras of Wilbraham being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.